

Enrolled Senate Bill 885

Sponsored by Senator DUKES; Senators BURDICK, CASTILLO

CHAPTER

AN ACT

Relating to pain management; creating new provisions; amending ORS 675.110, 677.228, 677.510, 678.101, 684.092 and 685.102; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Pain Management Commission is established within the Department of Human Services. The commission shall:

- (a) Develop a pain management practice program for providers;**
- (b) Develop pain management recommendations;**
- (c) Develop ways to improve pain management services through research, policy analysis and model projects; and**
- (d) Represent the concerns of patients in Oregon on issues of pain management to the Governor and the Legislative Assembly.**

(2) The pain management coordinator of the Department of Human Services shall serve as staff to the commission.

SECTION 2. (1) The Pain Management Commission shall consist of 19 members as follows:

(a) Seventeen members shall be appointed by the Director of Human Services. Prior to making appointments, the director shall request and consider recommendations from individuals and public and private agencies and organizations with experience or a demonstrated interest in pain management issues, including but not limited to:

- (A) Physicians licensed under ORS chapter 677 or organizations representing physicians;**
- (B) Nurses licensed under ORS chapter 678 or organizations representing nurses;**
- (C) Psychologists licensed under ORS 675.010 to 675.150 or organizations representing psychologists;**
- (D) Physician assistants licensed under ORS 677.495 to 677.545 or organizations representing physician assistants;**
- (E) Chiropractic physicians licensed under ORS chapter 684 or organizations representing chiropractic physicians;**
- (F) Naturopaths licensed under ORS chapter 685 or organizations representing naturopaths;**
- (G) Clinical social workers licensed under ORS chapter 675 or organizations representing clinical social workers;**
- (H) Palliative care professionals or organizations representing palliative care professionals;**
- (I) Mental health professionals or organizations representing mental health professionals;**

- (J) Health care consumers or organizations representing health care consumers;
- (K) Hospitals and health plans or organizations representing hospitals and health plans;
- (L) Patients or advocacy groups representing patients; and
- (M) Members of the public.

(b) Two members shall be members of a legislative committee with jurisdiction over human services issues, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives. Both members shall be nonvoting, ex officio members of the commission.

(2) The term of office of each member is four years, but a member serves at the pleasure of the appointing authority. Before the expiration of the term of a member, the appointing authority shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

SECTION 3. The Pain Management Commission shall:

- (1) Develop a pain management education program curriculum and update it biennially;
- (2) Provide health professional regulatory boards and other health boards, committees or task forces with the curriculum; and
- (3) Work with health professional regulatory boards and other health boards, committees or task forces to develop approved pain management education programs as required.

SECTION 4. Notwithstanding the term of office specified by section 2 of this 2001 Act, of the members first appointed to the Pain Management Commission:

- (1) Five shall serve for a term ending July 1, 2003.
- (2) Five shall serve for a term ending July 1, 2004.
- (3) Five shall serve for a term ending July 1, 2005.
- (4) Four shall serve for a term ending July 1, 2006.

SECTION 5. (1) The Director of Human Services shall select one member of the Pain Management Commission as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the director determines.

(2) A majority of the voting members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once every six months at a place, day and hour determined by the director. The commission also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

SECTION 6. The Pain Management Commission may accept contributions of funds and assistance from the United States Government or its agencies or from any other source, public or private, and agree to conditions thereon not inconsistent with the purposes of the commission. All such funds shall be deposited in the Pain Management Fund established in section 9 of this 2001 Act to aid in financing the duties, functions and powers of the commission.

SECTION 7. The pain management education program curriculum described in section 3 of this 2001 Act shall be completed by January 1, 2003.

SECTION 8. In accordance with applicable provisions of ORS 183.310 to 183.550, the Pain Management Commission may adopt rules necessary to implement sections 1 to 9 of this 2001 Act.

SECTION 9. There is established the Pain Management Fund in the Department of Human Services Account established under ORS 409.060. All moneys credited to the Pain Management Fund are continuously appropriated for the purposes of sections 1 to 9 of this 2001 Act to be expended by the Pain Management Commission established under section 1 of this 2001 Act.

SECTION 10. (1) A physician assistant licensed under ORS chapter 677, a nurse licensed under ORS chapter 678, a psychologist licensed under ORS 675.010 to 675.150, a chiropractic

physician licensed under ORS chapter 684 or a naturopath licensed under ORS chapter 685 must complete one pain management education program established under section 3 of this 2001 Act.

(2) The Board of Medical Examiners, in consultation with the Pain Management Commission, shall identify by rule physicians licensed under ORS chapter 677 who, on an ongoing basis, treat patients in chronic or terminal pain and who must complete one pain management education program established under section 3 of this 2001 Act. The board may identify by rule circumstances under which the requirement under this section may be waived.

SECTION 11. A person required to complete one pain management education program established under section 3 of this 2001 Act shall complete the program within 24 months of the operative date of this section or within 24 months of the first renewal of the person's license after the operative date of this section.

SECTION 11a. If Senate Bill 569 becomes law, section 11 of this 2001 Act is amended to read:

Sec. 11. A person required to complete one pain management education program established under section 3 of this 2001 Act shall complete the program:

(1) Within 24 months of the operative date of this section; [or]

(2) Within 24 months of the first renewal of the person's license after the operative date of this section; or

(3) For a physician assistant for whom an application under ORS 677.510 (1) has been approved before the operative date of this section, within 24 months after the operative date of this section.

SECTION 12. ORS 675.110 is amended to read:

675.110. The State Board of Psychologist Examiners shall have the following powers, in addition to the powers otherwise granted under ORS 675.010 to 675.150, and shall have all powers necessary or proper to carry the granted powers into effect:

(1) To determine qualifications of applicants to practice psychology in this state; to cause to have examinations prepared, conducted and graded and to grant licensing to qualified applicants upon their compliance with the provisions of ORS 675.010 to 675.150 and the rules of the board.

(2) To grant or deny annual renewal of licenses, and to renew licenses which have lapsed for nonpayment of the renewal fee, subject to the provisions of ORS 675.010 to 675.150.

(3) To suspend or revoke licenses, subject to ORS 675.010 to 675.150.

(4) To issue letters of reprimand, to impose probationary periods with the authority to restrict the scope of practice of a licensed psychologist or to require practice under supervision.

(5) To impose civil penalties not to exceed \$1,000.

(6) To restore licenses which have been suspended or revoked or voided by nonpayment of the renewal fee.

(7)(a) To collect annual fees for application, examination and licensing of applicants, for renewal of licenses, and for issuance of limited permits, such fees to be used to defray the expenses of the board as provided in ORS 675.140.

(b) The board may collect a delinquent renewal fee for licenses renewed after January 1 but before February 1.

(8) To investigate alleged violations of ORS 675.010 to 675.150.

(9) To issue subpoenas for the attendance of witnesses, take testimony, administer oaths or affirmations to witnesses, conduct hearings, require the production of relevant documents in all proceedings pertaining to the duties and powers of the board.

(10) To enforce ORS 675.010 to 675.150 and to exercise general supervision over the practice of psychology in this state.

(11) To adopt a common seal.

(12) To formulate a code of professional conduct for the practice of psychology giving particular consideration to the Ethical Standards of Psychologists promulgated by the American Psychological Association.

(13) To establish standards of service and training and educational qualifications for the rendering of ethical psychological services in this state, including the formulation of standards for the issuance of licenses for areas of special competence.

(14) To formulate and enforce continuing education requirements for duly licensed psychologists to insure the highest quality of professional services to the public.

(15) To deny annual renewal of a license, or renewal of a license that has lapsed for nonpayment of the renewal fee, unless prior to payment of the renewal fee described in subsection (7) of this section the applicant completes, or provides documentation of previous completion of:

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under section 1 of this 2001 Act; or

(b) An equivalent pain management education program, as determined by the board.

~~[(15)]~~ **(16)** Subject to the applicable provisions of ORS 183.310 to 183.550, to adopt reasonable rules to carry out the provisions of ORS 675.010 to 675.150.

SECTION 13. ORS 677.228 is amended to read:

677.228. (1) A person's license to practice under this chapter automatically lapses if the licensee fails to:

(a) Pay the registration fee as required by rule of the Board of Medical Examiners for the State of Oregon.

(b) Notify the board of a change of location not later than the 30th day after such change.

(c) Complete prior to payment of the registration fee described in paragraph (a) of this subsection, or provide documentation of previous completion of, if required by rule of the board:

(A) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under section 1 of this 2001 Act; or

(B) An equivalent pain management education program, as determined by the board.

(2) If a license issued automatically lapses under this section, the holder of the license shall not practice until the conditions for which the license automatically lapsed no longer exist.

(3) A person whose license has automatically lapsed under subsection (1)(a) of this section is reinstated automatically when the licensee pays the registration fee plus all late fees then due.

(4) A person whose license has automatically lapsed under subsection (1)(b) of this section is reinstated automatically if the board receives notification of the current and correct address of the licensee not later than the 10th day after such automatic lapse takes effect. Otherwise the lapse continues until terminated by the board.

(5) A person whose license has automatically lapsed under subsection (1)(c) of this section is reinstated automatically when the board receives documentation of the person's completion of a pain management education program if required by subsection (1)(c) of this section.

SECTION 14. ORS 677.510 is amended to read:

677.510. (1) A person licensed to practice medicine under this chapter shall not use the services of a physician assistant without the prior approval of the Board of Medical Examiners. The application shall state the name of the physician assistant, describe the manner and extent to which the physician assistant's services would be used and supervised, state the education, training and experience of the physician assistant and provide such other information in such a form as the board may require.

(2) The board may approve or reject an application, or it may modify the proposed use of the services of the physician assistant and approve the application as modified. Approval shall be valid for no more than one year but may be renewed annually. When it appears to the board that the services of a physician assistant are being used in a manner inconsistent with the approval granted, the board may withdraw its approval. If a hearing is requested by the physician or the physician

assistant upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with ORS 677.200.

(3) The supervising physician may have a different specialty from the physician assistant. A physician assistant may be supervised by no more than four physicians. A physician may supervise two physician assistants. However, in population groups federally designated as underserved, or in geographic areas of the state that are federally designated health professional shortage areas, federally designated medically underserved areas or areas designated as medically disadvantaged and in need of primary health care providers by the Director of Human Services or the Office of Rural Health, a physician may supervise four physician assistants. The board may review and approve applications from physicians serving federally designated underserved populations, or physicians in federally designated health professional shortage areas, federally designated medically underserved areas or areas designated as medically disadvantaged and in need of primary health care providers by the Director of Human Services or the Office of Rural Health to supervise more than four physician assistants, and applications from physician assistants to be supervised by more than four physicians. A physician assistant may render services in an emergency room and other hospital settings, a nursing home, a corrections institution and any site included in the practice description.

(4) A licensed physician assistant may make application to the board for emergency drug dispensing authority. The board shall consider the criteria adopted by the Physician Assistant Committee under ORS 677.545 (4) in reviewing the application. Such emergency dispensing shall be of drugs prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS chapter 689.

(5) Notwithstanding subsection (2) of this section, the board may not renew approval for use of the services of a physician assistant unless the physician assistant completes prior to the application for renewal, or provides documentation of previous completion of:

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under section 1 of this 2001 Act; or

(b) An equivalent pain management education program, as determined by the board.

SECTION 14a. If Senate Bill 569 becomes law, section 14 of this 2001 Act (amending ORS 677.510) is repealed and ORS 677.510, as amended by sections 1 and 2, chapter 743, Oregon Laws 2001 (Enrolled Senate Bill 569), is amended to read:

677.510. (1) A person licensed to practice medicine under this chapter shall not use the services of a physician assistant without the prior approval of the Board of Medical Examiners. The application shall state the name of the physician assistant, describe the manner and extent to which the physician assistant's services would be used and supervised, state the education, training and experience of the physician assistant and provide such other information in such a form as the board may require.

(2) The board may approve or reject an application, or it may modify the proposed use of the services of the physician assistant and approve the application as modified. When it appears to the board that the services of a physician assistant are being used in a manner inconsistent with the approval granted, the board may withdraw its approval. If a hearing is requested by the physician or the physician assistant upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with ORS 677.200.

(3) The supervising physician may have a different specialty from the physician assistant. A physician assistant may be supervised by no more than four physicians. A physician may supervise two physician assistants. However, in population groups federally designated as underserved, or in geographic areas of the state that are federally designated health professional shortage areas, federally designated medically underserved areas or areas designated as medically disadvantaged and in need of primary health care providers by the Director of Human Services or the Office of Rural Health, a physician may supervise four physician assistants. The board may review and approve applications from physicians serving federally designated underserved populations, or physi-

cians in federally designated health professional shortage areas, federally designated medically underserved areas or areas designated as medically disadvantaged and in need of primary health care providers by the Director of Human Services or the Office of Rural Health to supervise more than four physician assistants, and applications from physician assistants to be supervised by more than four physicians. A physician assistant may render services in an emergency room and other hospital settings, a nursing home, a corrections institution and any site included in the practice description.

(4) A licensed physician assistant may make application to the board for emergency drug dispensing authority. The board shall consider the criteria adopted by the Physician Assistant Committee under ORS 677.545 (4) in reviewing the application. Such emergency dispensing shall be of drugs prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS chapter 689.

(5) A physician assistant for whom an application under subsection (1) of this section has been approved by the board on or after the operative date of this section shall submit to the board, within 24 months after the approval, documentation of completion of:

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under section 1 of this 2001 Act; or

(b) An equivalent pain management education program, as determined by the board.

SECTION 15. ORS 678.101 is amended to read:

678.101. **(1)** Every person licensed to practice nursing shall apply for renewal of the license other than a limited license in every second year before 12:01 a.m. on the anniversary of the birthdate of the person in the odd-numbered year for persons whose birth occurred in an odd-numbered year and in the even-numbered year for persons whose birth occurred in an even-numbered year. Persons whose birthdate anniversary falls on February 29 shall be treated as if the anniversary were March 1.

(2) Each application shall be accompanied by a nonrefundable renewal fee payable to the Oregon State Board of Nursing.

(3) The board may not renew the license of a person licensed to practice nursing unless:

(a) The requirements of subsections (1) and (2) of this section are met; and

(b) Prior to payment of the renewal fee described in subsection (2) of this section the applicant completes, or provides documentation of previous completion of:

(A) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under section 1 of this 2001 Act; or

(B) An equivalent pain management education program, as determined by the board.

(4) The license of any person not *[submitting, personally or by appropriately postmarked letter, the application and renewal fee before 12:01 a.m. on the proper date of the appropriate year]* **renewed for failure to comply with subsections (1) to (3) of this section** is expired and the person shall be considered delinquent and *[shall be]* **is** subject to the delinquent fee specified in ORS 678.410.

(5) A registered nurse who has been issued a certificate as a nurse practitioner shall apply, personally or by appropriately postmarked letter, for renewal of the certificate and for renewal of the prescriptive privileges in every second year before 12:01 a.m. on the anniversary of the birthdate, as determined for the person's license to practice nursing.

SECTION 16. ORS 684.092 is amended to read:

684.092. **(1)** Except as provided in subsection (2) of this section, a chiropractic physician submitting a fee under ORS 684.090 shall, at the same time, submit satisfactory evidence of the successful completion of 20 or more hours of approved continuing chiropractic education during the preceding 12-month period **and completion, or documentation of previous completion, of:**

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under section 1 of this 2001 Act; or

(b) An equivalent pain management education program, as determined by the board.

(2) The State Board of Chiropractic Examiners may exempt a chiropractic physician from the requirements of subsection (1) of this section upon an application by the chiropractic physician showing by evidence satisfactory to the board that the chiropractic physician is unable to comply with the requirements because of unusual or extenuating circumstances or because no program has been approved by the board.

SECTION 17. ORS 685.102 is amended to read:

685.102. (1) Except as provided in subsections (2) and (5) of this section, each person holding a license under this chapter shall submit annually by December 31, evidence satisfactory to the Board of Naturopathic Examiners of successful completion of an approved program of continuing education of at least 20 hours in naturopathic medicine, completed in the calendar year preceding the date on which the evidence is submitted, **and completion during the renewal period, or documentation of previous completion, of:**

(a) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under section 1 of this 2001 Act; or

(b) An equivalent pain management education program, as determined by the board.

(2) The board may exempt any person holding a license under this chapter from the requirements of subsection (1) of this section upon application showing evidence satisfactory to the board of inability to comply with the requirements because of physical or mental condition or because of other unusual or extenuating circumstances. However, no person shall be exempted from the requirements of subsection (1) of this section more than once in any five-year period.

(3) Notwithstanding subsection (2) of this section, a person holding a license under this chapter may be exempted from the requirements of subsection (1) of this section upon application showing evidence satisfactory to the board that the applicant is or will be in the next calendar year at least 70 years of age and is retired or will retire in the next calendar year from the practice of naturopathic medicine.

(4) The board shall require licensees to obtain continuing education for the use of pharmacological substances for diagnostic, preventive and therapeutic purposes in order to maintain current licensure.

(5) A person whose license is in inactive status must submit by December 31 of each year evidence satisfactory to the board of completion of 10 hours of approved continuing education in the year preceding the date on which the evidence is submitted.

(6) Notwithstanding subsections (1), (2) and (5) of this section, in the case of an applicant under ORS 685.100 (4)(b) for reactivation of an inactive license, the continuing education requirement for reactivation shall be set by rule of the board.

SECTION 18. Sections 10, 11 and 11a of this 2001 Act and the amendments to ORS 675.110, 677.228, 677.510, 678.101, 684.092 and 685.102 by sections 12 to 17 of this 2001 Act become operative on January 2, 2006.

Passed by Senate June 4, 2001

Repassed by Senate July 5, 2001

.....
Secretary of Senate

.....
President of Senate

Passed by House July 5, 2001

.....
Speaker of House

Received by Governor:

.....M.,....., 2001

Approved:

.....M.,....., 2001

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2001

.....
Secretary of State